

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ROLLY O. KINNELL,

Plaintiff,

v.

CASE NO. 03-3351-SAC

RICHARD SMITH,
et al.,

Defendants.

O R D E R

This matter is before the court upon post-judgment motions filed by plaintiff entitled "Motion for Leave to File Relief from Judgment of order before G.T. VanBebber October 8th, 2003" (Doc. 42), "Motion for Leave to File this Relief from Judgments in this Court under Civ.Proc. Rule 52(a), 60(b)(3)(4)(5)(6), Rule 12(a)(3)(A)(b)(2) in that Orders were Clearly Erroneous Shown" (Doc. 43), and "Motion to Amend Under Rule 15(a)(b)(c)(2)(2)(3)(d), Rule 12(a)(3)(A)(b)(2) that this Court and Tenth Circuit did not have Jurisdiction to Enforce PLRA-1915(g) upon being Clearly Unconstitutional" (Doc. 44). Having considered these motions, the court finds they are frivolous and malicious. Plaintiff raises the same claims that he has repeatedly raised in many of his cases including that § 1915(g) is unconstitutional and judges had no jurisdiction to apply it in his cases, that his cases which were over two-years old could not count as strikes, that his state court conviction is void mainly on the claim that an element of the offense was not proven, and that judges who have ruled on his claims were biased and lacked jurisdiction. These claims have previously been rejected, and the court is not required to repeat prior

holdings simply because plaintiff refuses to accept those holdings. The court finds that no exceptional circumstances are presented which would entitle plaintiff to either relief from judgment or a writ of error coram nobis.

Plaintiff is warned that if he files another frivolous post-judgment motion in this case, a no-file order may be entered in this case.

IT IS THEREFORE ORDERED that all plaintiff's pending motions (Docs. 42, 43, 44) are denied.

IT IS FURTHER ORDERED that any Notice of Appeal of this order filed by plaintiff that is submitted without prepayment of the full appellate filing fee is not taken in good faith.

IT IS SO ORDERED.

Dated this 14th day of May, 2009, at Topeka, Kansas.

s/Sam A. Crow
U. S. Senior District Judge